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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,540	04/27/2001	Peter Lorin Rothman	700-208RP	3744

7590 08/23/2004

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McLEAN, VA 22102

EXAMINER
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NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/844,540

Applicant(s)

ROTHMAN ET AL.

Examiner

Phuoc H. Nguyen

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) \*
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/15/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-23 rejected under 35 U.S.C. 102(e) as being anticipated by Glaser et al (Hereafter, Glaser), U.S. Patent 6,151,634.

3. Regarding claims 1 and 17, Glaser teaches a streaming data delivery system (Figure 2A) comprising a stream database for storing a plurality of data as a program to be transmitted in a stream over a communications network, and for storing characteristic information about the stream (Figure 2; col. 6, lines 25-42); a directory server for storing a list of the program and the associated stream which is available to stream over the communications network, and a streaming server, responsive to the characteristic information, the list, and a load condition of the streaming server associated with the stream and the list, for the controlling the streaming of the stream and the delivery of its associated list over the communications network (Abstract; Figure 6A; col. 6, lines 25-42; col. 14, lines 42 through col. 15, 1<sup>st</sup> paragraph; and col. 25, last paragraph).

4. Regarding claims 2 and 10, Glaser teaches the streaming server operates in a first mode of a plurality of modes for controlling the streaming of the data (Figures 6a and 6b).

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5. Regarding claims 3,11, and 18, Glaser teaches a looping mode, a relay mode, a live-broadcast mode, and an on-demand mode (Abstract; Figures 2a and 8a; col. 3, lines 35-50; col. 5, lines 43-49; and col. 9, last paragraph through col. 10, 1<sup>st</sup> paragraph).
6. Regarding claims 4,12, and 19, Glaser teaches the looping mode, the relay mode, or the live-broadcast mode, the streaming server transmits a common stream having identical data to each of a plurality of users (eg. live source 210 broadcast to subscriber PCs 110 of Figure 2A).
7. Regarding claims 5,13, and 20, Glaser teaches the streaming server transmits, in the on-demand mode, a plurality of streams to a plurality of users, with each user receiving a respective individualized stream from the plurality of streams (Abstract; Figure 2a; eg. Subscriber request a clip from a server)
8. Regarding claims 6,14, and 21, Glaser teaches wherein the stream database stores the plurality of data as a plurality of streams, including a first stream, and wherein the streaming server, responsive to a first load condition associated with the first stream, stops the streaming of the first stream over the communications network and controls the delivery of the list associated with the first stream over the communication network (col. 27, lines 12-43).
9. Regarding claims 7,15, and 22, Glaser teaches the first load condition corresponds to zero load with no users accessing the first stream, and wherein the streaming server controls the delivery of the list by not sending the list over the communications network (col. 12, lines 31-57).
10. Regarding claims 8,16, and 23, Glaser teaches the first load condition corresponds to a low load with at least one user accessing the list and with no users accessing the first stream, and wherein the streaming server controls the delivery of the list by updating the list and by sending

the list over the communications network to the at least one user (col. 13, lines 46-65; and col. 22, last paragraph).

11. Regarding to claim 9, Glaser teaches a client device associated with the user including (Figure 2a, Subscriber 110): a processor for sending data requests over a communications network and for receiving data in streams from the communications network (Figure 2a; eg. subscriber 110 request and receive streaming data over net transport 250/270 ; the communications network being connected to the client device for transmitting data requests and streamed data (Figure 2a-2d); and a streaming data delivery apparatus (eg. proximate server 260 or primary server 240), connected to the communications network (eg. net transport) for communicating to the client device (eg. subscriber PC 110) through the communications network, the streaming data delivery apparatus including: a stream database for storing a plurality of data as a program to be transmitted in a stream over the communications network (Figure 2; col. 6, lines 25-42), and for storing characteristic information about the stream, wherein the plurality of data includes at least one of audio data, video data, multimedia data, and text data; a directory server for storing a list of the program and the associated stream which is available to stream over the communications network, and a streaming server, responsive to a data request from the user, the characteristic information, the list, and a load condition of the streaming server associated with the stream and the list, for the controlling the streaming of the stream and the delivery of its associated list to the client device over the communications network (Abstract; Figure 6A; col. 6, lines 25-42; col. 14, lines 42 through col. 15, 1<sup>st</sup> paragraph; and col. 25, last paragraph).

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bhagavath et al. U.S. Patent 6,505,169

Mackintosh et al. U.S. Patent 6,317,784

Klemets et al. U.S. Patent 6,449,653

Chang et al. U.S. Patent 6,715,126

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu (7AM-4: 30PM) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H. Nguyen  
Examiner  
Art Unit 2143

August 10, 2004

Application/Control Number: 09/844,540  
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DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
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